

REMARKS/ARGUMENTS

The Examiner has delineated the following inventions as being patentably distinct:

Group I: Claims 1-4, drawn to an aqueous dispersion; and

Group II: Claims 5-6, drawn to a polishing method.

Applicants provisionally elect, with traverse, the invention of Group I, Claims 1-4, directed to an aqueous dispersion.

The claims of Groups I and II are integrally linked as product and method of use.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (M.P.E.P. § 803). The burden of proof is on the Examiner to provide reasons and/or examples to support any conclusions in regard to patentable distinction. Final product and the method of using said product, which is critical to the patentability of the product should be examined together. It is a technical relationship that involves the same features, and it is this technical relationship that defines the contribution which each of the groups takes as a whole makes over even the prior art.

Applicants respectfully submit that a search of all the claims would not impose a serious burden on the Office. As the Office has not shown any evidence that a Restriction Requirement should be required when the International Preliminary Examination Report did not restriction is believed to be improper.

The determination of whether a group of inventions is so linked as to form a single general inventive concept, concept should be made without regard to whether the inventions are claimed as separate claims or as an alternative within a single claim. Unity of invention has to be considered in the first place only in relation to the independent claim. A dependent claim is one which contains all the features of another claim and is in the same category of claims as the other claims. It does not matter if a dependent claim itself contains a further

invention. In fact, the International Search Authority has searched all of the claims together. As the Office has not shown any evidence that a restriction should now be required when the International Preliminary Examination did not, the restriction is believed to be improper.

Further, M.P.E.P. § 803 states as follows:

If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on its merits even though it includes claims to distinct and independent inventions.

Different classifications of subject matter to be divided is not conclusive proof of independent status and divisibility.

For the reasons set forth above, Applicants request that the Restriction Requirement be withdrawn.

Applicants further request that if the invention of Group I is found allowable, withdrawn Group II which includes all the limitations of the allowable claims be rejoined.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon



Paul J. Killos
Registration No. 58,014

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)